IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6301 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NANABHAI JAGANNATH PATIL

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for the Petitioner.

Ms.Archana Raval, Assistant GOVERNMENT PLEADER, for Respondent No. 1-3

RULE SERVED for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 16/08/2004

ORAL JUDGEMENT

By filing this petition, the petitioner-detenu has challenged his detention order dated 27.2.2004, by which he is detained as a 'bootlegger' under the Gujarat

Prevention of Anti-social Activities Act, 1985 ("PASA", for short). Along with the detention order, the petitioner-detenu is also served with the grounds of detention.

In the grounds of detention, there is a reference about six criminal cases, which are filed under the Bombay Prohibition Act.

The Authority, after considering the said cases, and after considering the statements of two witnesses, whose names have not been disclosed to the petitioner, has detained him under PASA. It is the aforesaid order, which is impugned in this petition.

The learned Advocate for the petitioner submitted that the petitioner made a representation to the State Government on 6.4.2004 as well as on 13.4.2004 and the said representations were received by the Office of the Home Minister on 15.4.2004, which was disposed of on 19.4.2004. It is submitted that there is a delay of four days in deciding the representation. The point that representation is made is already taken in paragraph 10 of the petition. Copy of the communication dated 19.4.2004, received from the Home Department is taken on record.

As stated above, the ground of delay in deciding the representation is taken in the petition. However, that averment remains uncontroverted because no reply is filed on behalf of the respondents. Therefore, the said ground about delay in deciding the representation is required to be accepted as true and on this ground, the petition is required to be allowed.

The petition is accordingly allowed. The order of detention is quashed and set aside. It is ordered that the detenu be released forthwith unless the detenu is required in connection with any other case. The Rule is made absolute accordingly.

At this stage, the learned Advocate for the petitioner submitted that the petitioner will not enter Limbayat Police Station area upto 30th November, 2004. This voluntary statement is recorded. It is for the authority to monitor the same.

(P.B. Majmudar, J.)

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(apj)